

### **REMARKS**

Claims 1-8 are pending in this application. The current Office Action, mailed May 16, 2006, indicates that claims 1, 2, 5 and 6 are allowed and claims 3, 4, 7 and 8 are rejected. Applicant hereby traverses the rejection of record and requests reconsideration and withdrawal of such in view of the remarks contained herein.

#### **Rejection Under 35 U.S.C. § 102(b):**

Claims 3, 4, 7 and 8 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,507,782 to Kunimasa et al. (hereinafter "*Kunimasa*").

It is well settled that to anticipate a claim, the reference must teach every element of the claim. *See* M.P.E.P. § 2131. Moreover, in order for an applied reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he elements must be arranged as required by the claim." *See* M.P.E.P. § 2131; *citing In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for an applied reference to be anticipatory under 35 U.S.C. § 102, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *See* M.P.E.P. § 2131; *citing Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989).

In the current Office Action, the Examiner indicates that claims 3-4 are rejected. *See* current Office Action, pg. 2. However, the current Office Action provides no explanation as how *Kunimasa* anticipates these claims. That is, the Office Action fails to identify the teaching of *Kunimasa* that is asserted as teaching the elements of claims 3-4. Rather, the current Office Action appears to only explain the application of *Kunimasa* to claims 7-8, see pages 2-3 of the current Office Action. Applicant notes that "the examiner ordinarily should reject each claim on all valid grounds available" and "the examiner's action [should be] complete as to all matters." *See* M.P.E.P. 707.07; 37 C.F.R. 1.104(b). As such, Applicant requests allowance of claims 3-4 or an appropriate rejection in a subsequent non-final Action to afford Applicant a full and fair opportunity to respond to the same. Nevertheless, in order to advance prosecution of the pending application, Applicant points out that the cited reference does not teach every element of claims 3-4 and 7-8.

Claim 3 recites “determining the data packet to be a special tagged data packet when the comparing step results in a match.” *Kunimasa* merely discloses that “when the results of comparison are normal, the central control unit 60 requires the channel interface circuit 68 to receive data, .... When the results of comparison indicate that the two data disagree with each other, the central control unit 60 discards the above data.” *See Kunimasa*, col. 5 lines 21-23. In view of the above, *Kunimasa* contemplates only two situations: 1) the comparison returns a normal result and *data is accepted* by a channel interface circuit, and 2) the comparison returns a disagreeing result and *data is discarded*. Applicant respectfully points out that, in either situation contemplated by *Kunimasa*, a data packet is not determined to be a special tagged data packet, as set forth in claim 3. In view of above, *Kunimasa* fails to teach every element of claim 3. Therefore, Applicant requests withdrawal of the rejection of record.

Claim 4 depends from claim 3 and inherits every element therefrom. As such, claim 4 sets forth limitations not taught by *Kunimasa*, and is patentable at least for the reasons set forth above with respect to claim 3. Therefore, Applicant requests withdrawal of the rejection of record.

Claim 7 recites “generating a code sequence as a function of the subset by utilizing a suitable algorithm.” Although it is unclear in the Current Action which portion of *Kunimasa* the Examiner relies upon to satisfy this limitation, as Applicant is best able to discern, the Examiner relies upon *Kunimasa*, at col. 3 lines 32-55. *See Current Action*, pg. 3. However, at this citation *Kunimasa* merely discloses forming an error check character for checking error in user data, in accordance with a sequence determined between the sending and receiving nodes. *See Kunimasa*, col. 3 lines 45-50. Applicant points out that *Kunimasa* does not mention that its sequence is a function of a subset, as set forth in claim 7. As Applicant best understands, the Examiner equates *Kunimasa*’s “packet 51” with the claimed subset. However, Applicant notes that *Kunimasa* teaches away from generating a sequence as a function of packet 51. Instead, *Kunimasa* teaches “[packet 51] is equivalent, in packet transmission sequence, with other packets including user data, and it is not required to treat [packet 51] as a special packet in the network.” *See Kunimasa* col. 3, lines 40-45. *Kunimasa* does not distinguish packets (e.g., that which the examiner equates with a subset) from one

another during transmission. As such, *Kunimasa* suggests that no sequence is generated as a function of any such packet, including packet 51. In view of above, *Kunimasa* fails to teach every element of claim 7. Therefore, Applicant requests withdrawal of the rejection of record.

Claim 7 also recites “comparing the generated code sequence with a predetermined sequence.” Although it is unclear in the current Office Action which portion of *Kunimasa* the Examiner relies upon to satisfy this limitation, as Applicant is best able to discern, the Examiner relies upon *Kunimasa*, at col. 5 lines 8-27. See current Office Action, pg. 3. However, at this citation *Kunimasa* merely discloses a comparator for comparing data in the receiving packet buffer and data in a receiving check buffer. See *Kunimasa*, col. 5 lines 15-20. Clearly, data in *Kunimasa*’s receiving packet buffer and receiving check buffer is not a generated code sequence or a predetermined sequence. Instead, the data referred to is user data. Moreover, *Kunimasa* is wholly silent as to the comparison of any two sequences, and does not mention a generated sequence or a predetermined sequence. In view of above, *Kunimasa* fails to teach every element of claim 7. Therefore, Applicant requests withdrawal of the rejection of record.

Claim 7 further recites “identifying the trial data packet as a special data packet when the comparing step results in a match.” Although it is unclear in the current Office Action which portion of *Kunimasa* the Examiner relies upon to satisfy this limitation, as Applicant is best able to discern, the Examiner relies upon *Kunimasa*, at col. 5 lines 8-27. See current Office Action, pg. 3. However, at this citation *Kunimasa* merely discloses that “when the results of comparison are normal, the central control unit 60 requires the channel interface circuit 68 to receive data, .... When the results of comparison indicate that the two data disagree with each other, the central control unit 60 discards the above data.” See *Kunimasa*, col. 5 lines 21-23. In view of the above, *Kunimasa* contemplates only two situations: 1) the comparison returns a normal result and *data is accepted* by a channel interface circuit, and 2) the comparison returns a disagreeing result and *data is discarded*. Applicant respectfully points out that, in either situation contemplated by *Kunimasa*, a data packet is not identified as a special data packet, as set forth in claim 7. In view of above, *Kunimasa* fails to teach

every element of claim 7. Therefore, Applicant requests withdrawal of the rejection of record.

Claim 8 depends from claim 7 and inherits every limitation therefrom. As such, claim 8 sets forth limitations not taught by *Kunimasa*, and is patentable at least for the reasons set forth above with respect to claim 7. Therefore, Applicant requests withdrawal of the rejection of record.

**Conclusion**

In view of the above, Applicant believes the pending application is in condition for allowance. Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 50-1078, under Order No. 10971977-1 from which the undersigned is authorized to draw.

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Label No. EV 482734077US in an envelope addressed to: M/S Amendment, Commissioner for Patents, Alexandria, VA 22313.

Date of Deposit: August 7, 2006

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